IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 34673 of 2007(C)

PETITIONER:

THE VELLIYAMATTOM BHAGAVATHI TEMPLE
DEVASWOM TRUST,REG.NO. 101/4/2005 REPRESENTED BY
ITS PRESIDENT SRI MONOJ R.NAIR,S/O.RATNAKARAN NAIR
AGED 31 YEARS, NEERUNGAL HOUSE, VELIYAMATTOM PO
THODUPUZHA.

BY ADV. SRI.ALEXANDER JOSEPH
SRI.M.V.SABU

RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT
DEPARTMENT OF LOCAL SELF GOVERNMENT
GOVERNMENT SECRETARIATE,TRIVANDRUM.

2. THE DISTRICT COLLECTOR, IDUKKI DISTRICT
PAINAV, IDUKI.

3. THE REVENUE DIVISIONAL OFFICER
THODUPUZHA.

4. THE TAHSILDAR, THODUPUZHA.

5. THE CIRCLE INSPECTOR OF POLICE
KANJAR POLICE STATION KANJAR, THODUPUZHA.

6. THE VELLIYAMATTOM GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, VELLIYAMATTOM
THODUPUZHA.

R1 to R5 BY GOVT. PLEADER MR. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 34673 OF 2007 C
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Dated this the 30th November, 2007

J U D G M E N T

The writ petition has been filed by the Trustee of a temple for directing the respondents not to remove the river sand from Parakunnel Kadavu coming within the jurisdiction of the 6th respondent-Panchayat.

2. The provocation for filing this writ petition is Ext. P3 notice published by the 6th respondent Panchayat proposing to auction the right to remove the river sand from three kadavus including the Parakunnel Kadavu mentioned in the writ petition.

3. Petitioner relies on Exts. P1 and P2 by which in the previous year, according to him, the authorities were restrained from auctioning away the right to remove the sand from the said kadavu. It is submitted that the kadavu is situated in the close proximity of the temple and that if removal of river sand is allowed that will affect the rituals of the devotees. It is also stated that there is a dispute regarding the right

for removal of river sand. It is contended that the temple road is used for the access to the kadavu and if river sand is allowed to be removed it will cause damage to the road.

4. I have heard counsel for the petitioner.

5. The proximity of the temple to the river is not a reason for interdicting the respondents from auctioning away the right as proposed in Ext. P3 if they are otherwise entitled to do. Petitioner could not substantiate his objection that auctioning of the right to remove the sand from the said kadavu will in any manner affect the rituals in the temple. It may be true that the authorities were restrained from auctioning the right in the previous year. If the very same authorities have considered it not necessary to pass such an order this year, it must be for the reason that no harm will be caused. On the other hand, if even at this distance of time the authorities are inclined to take the view that the river sand should not be allowed to be transported from the kadavu it is still open to them to interfere with the matter.

6. Petitioner submits that a litigation is going on

in regard to the right of way and that matter is pending consideration of this Court. However, the petitioner has not got any interim order of injunction in that matter.

7. For all these reasons I am not inclined to interfere with Ext. P3. I clarify that it is open to respondents 2 and 3 to interfere with the matter should any occasion arise for the same.

8. Petitioner has yet another complaint that the Kerala Protection of River Bank & Regulation of Removal of Sand Act 2001 is being violated. If that be so, it is open to him to approach the authorities concerned for redressal of the grievance. However, this Court will not be justified in interfering with this writ petition.

Writ petition fails and is dismissed.

ANTONY DOMINIC
JUDGE

jan/-